

REMARKS

In summary, claims 1-24 are pending. Claims 21-23 are rejected under 35 U.S.C. 35 § 101. Claims 1-24 are rejected under 35 U.S.C. 35 § 103. Applicant respectfully traverses the rejections. Claims 21-23 are hereby amended. No new matter is added.

Claim Rejections - 35 U.S.C. §101

Claims 21-23 are rejected under 35 U.S.C. § 101 as not being limited to statutory subject matter because the claims are directed to a data structure. Without prejudice or disclaimer as to the nature of the subject matter disclosed in claims 21-23, claims 21-23 are hereby amended to recite a “computer-readable storage medium.” Accordingly, it is requested that the rejection, under 35 U.S.C. § 101, of claims 21-23 be reconsidered and withdrawn.

Claim Rejections - 35 U.S.C. §103

Claims 1-24 are all rejected under 35 U.S.C. § 103(a) as being unpatentable at least in part, over U.S. Patent Application No. 2003/0110171, in the name of Ozer *et al.* (hereinafter referred to as “Ozer”)

Ozer. (Application Serial No. 09/991,389) is an invalid reference. Accordingly, it is requested that all rejections based on Ozer *et al.* be reconsidered and withdrawn. Ozer is not a valid reference under 35 U.S.C § 103(c).

U.S. Patent 7,136,871, issued on Application Serial No. 09/991,389, on its printed face, lists that it is assigned to Microsoft Corporation. More importantly:

Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person. 35 U.S.C. § 103(c).

DOCKET NO.: MSFT-0765/190453.1
Application No.: 10/091,276
Office Action Dated: September 7, 2007

**PATENT
REPLY FILED UNDER EXPEDITED
PROCEDURE PURSUANT TO
37 CFR § 1.114**

As stated in the April 11, 2000 issue of the Official Gazette, pertaining to changes to 35 U.S.C. § 103(c) under the American Inventors Protection Act, “Subject matter which was prior art under former 35 U.S.C. § 103(c) via 102(e) is now disqualified as prior art against the claimed invention if that subject matter and the claimed invention ‘were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.’...This change to 103(c) applies to any patent application filed on or after the date of enactment, November 29, 1999. American Inventors Protection Act of 1999, Pub. L. No. 106-113, Sec. 4807(b). This amendment to 103(c) does not apply to any application filed before November 29, 1999...”

Ozer qualifies as prior art under 102(e) because its earliest priority date is November 21, 2001. At the time of filing the instant application (March 5, 2002), Ozer *et al.* was owned by Microsoft Corporation via its wholly owned subsidiary WebTV Networks Inc., and the instant application was subject to an obligation of assignment to Microsoft Corporation. It is further stated in the same issue of the Official Gazette (April 11, 2000), “Applications and patents will be considered by the examiner to be owned by, or subject to an obligation of assignment to, the same person, at the time the invention was made, if...the applicant provides evidence that the application and patent files refer to assignments recorded in the PTO in accordance with 37 CFR 3.11 which convey the entire rights in the applications to the same person(s) or organization(s) at the time of the invention...” The assignment to Microsoft Corporation of the instant application is evidenced by the notice of recordation of assignment, reel/frame number 012671/0723, recorded in the United States Patent and Trademark Office on March 5, 2002.

The assignment to Microsoft Corporation, via WebTV Networks Inc., of Ozer is evidenced by the notice of recordation of assignment, reel/frame number 012325/0356, recorded in the United States Patent and Trademark Office on November 21, 2001. WebTV Networks Inc., was a wholly owned subsidiary of Microsoft Corporation as of August 1, 1997 as evidenced by the attached page printouts (pages 1, 3, 11, 40, and 46) of the last 10-K Securities Filing (annual report) of WebTV Networks Inc., (the entire electronically signed document can be found at <http://www.sec.gov/Archives/edgar/data/1001616/0001032210-97->

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000206.txt), and the attached page print outs (pages 1, 8, and 15) of a 10-Q SEC Filing (quarterly report) by Microsoft Corporation for the period ending September 30, 1997 (the entire electronically signed document found at <http://www.sec.gov/Archives/edgar/data/789019/0000898430-97-004575.txt>)

Accordingly, because Ozer does not qualify as prior art, it is requested that the rejections, under 35 U.S.C. § 103, of claims 1-24, be reconsidered and withdrawn.

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CONCLUSION

It is requested that the forgoing amendments, arguments, and remarks be entered, and in view thereof, it is respectfully submitted that this application is in condition for allowance. Reconsideration of this application and an early Notice of Allowance are respectfully requested. In the event that the Examiner cannot allow this application for any reason, the Examiner is encouraged to contact the undersigned attorney to discuss resolution of any remaining issues.

Date: October 26, 2007

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